

September 15, 2006

Cheryl Niemi  
Washington Department of Ecology  
P.O. Box 47600  
Olympia WA 98504

**RE: Draft Economic Guidance for Meeting Water Quality Standards for Dams**

Dear Ms. Niemi,

I write today on behalf of the Save Our *Wild* Salmon coalition (SOS) and its member organizations to provide comments on the above-cited guidance document. With a combined membership of more than 6,000,000, SOS is a coalition of more than 50 sport fishing, commercial fishing, and conservation organizations – local, regional, and national – which seek restoration of salmon stocks throughout the Pacific Northwest. And while we anticipate providing more in-depth comments on later drafts of this guidance, we appreciate the opportunity to very briefly provide our thoughts on this round of the Department of Ecology's draft guidance.

Given that our focus is fish, our elemental concern with Ecology's approach in this document is that water quality will remain or become even more degraded in salmon-bearing rivers and streams. Since you propose to use economic factors to determine whether water quality standards need to be met at dams, it seems nearly inevitable that water quality – and the people, fish, and wildlife that depend on healthy rivers – will suffer.

Our belief is that it is fundamentally misguided and contrary to law to tie compliance with water quality standards to the economic ability to do so. These water quality standards exist to protect human health and the environment, including aquatic life. In crafting the Clean Water Act, Congress was clear in its mandate that the waters of this nation were to be made "fishable and swimmable." There is no guidance in the legislative history that federal actions should somehow be exempt from this mandate. Indeed, the legislative intent and the actual words of the statute say otherwise. And the resources – such as salmon – that are protected by the standards dictated by the Clean Water Act have great intrinsic worth, and in many cases economic worth as well.

For example, commercial fishing for Columbia Basin fish is worth \$54.3 million per year, according to the Northwest Power and Conservation Council's Independent Economic Advisory Board (see <http://www.nwcouncil.org/library/ieab/ieab2005-1.htm>). Sport fishing for salmon and steelhead in Idaho alone generates at least \$86 million per year, and would generate \$544 million in economic activity in Idaho alone if Snake River salmon are restored only the levels of the 1950s (see <http://www.idahorivers.org/pdf/FishingEconReport.05.pdf>). The Columbia Basin-wide restoration figure is likely well above \$1 billion.

But whether a dam is owned privately, by a public utility district (PUD), or federally owned, basing compliance with water quality standards on the economic feasibility of their attainment puts water quality at risk, as well as the fish and communities that rely upon that waterbody.

Complying with water quality standards should be the cost of doing business for a dam owner and operator, just as complying with air quality standards is part of the cost of doing business for a coal plant.

We strongly urge Ecology to withdraw this approach from future guidance documents. However, if the agency insists on moving forward with such an approach, Ecology must provide many more details than are available here. The current guidance document is sorely lacking in specifics about how the determination is to be made regarding whether the possibility of harm to the environment is worth the cost of the improvements necessary to comply with water quality standards.

Our concern is especially acute with regard to federal dams. These dams are not subject to the Federal Energy Regulatory Commission relicensing process, which at least provides a venue for airing relevant water quality issues. For example, how would Ecology determine whether a federal dam should be exempt from water quality standards? What would be the process for reaching that decision? How would the public be involved? What is the economic feasibility test for federal agencies since, as you note, "a federal dam owner/operator does not have to demonstrate that it cannot afford to pay for the WQS project." (Guidance at 6-1.)

We believe it would be inappropriate to leave federal dams to determine for themselves when and where water quality standards must be met. After all, leaving federal dams in Washington "off the hook" would have a significantly deleterious effect on Washington's fish populations and would put correspondingly more pressure on private and PUD dams to remedy water quality problems exacerbated by federal dam operations. This, in turn, could exaggerate the true cost of compliance for FERC-licensed dams, which could lead to still more water quality exemptions.

While as a matter of principle we oppose including an economic analysis in compliance decisions for any dam, if consumer energy costs are to be a factor in the decision, Ecology should ensure that any estimate of the impact on energy consumers of addressing water quality problems is independently reviewed and considers the cost of replacing any lost hydropower generation with alternative energy sources including improved energy efficiency and conservation programs.

Beyond these baseline concerns, we have a number of questions about how this guidance will be used, again especially with regard to the federal dams. For one thing, it is not even clear to which dams this guidance applies since the descriptions in the document are both inconsistent and conflicting. SOS recommends that the next draft guidance include a more precise description of which dams and hydrological modifications are covered by the guidance. For instance, if the guidance applies to federal hydropower dams, why does it not apply to federal dams that do not have hydropower facilities?

In conclusion, we again note that there simply is no basis under the Clean Water Act for evaluating whether meeting water quality standards is "worth" the costs. For this reason, SOS is unable to support Ecology's efforts in proposing this guidance document. Thank you for taking our comments into consideration and we look forward to hearing how this process will move forward. Please do not hesitate to contact me with any questions.

Sincerely,

Rhett Lawrence  
Policy Analyst